

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X		
NEIL N. MALHOTRA,	:	Case No.: _____
	:	
Plaintiff,	:	<b>NOTICE OF REMOVAL</b>
	:	
- against -	:	
	:	
EMIRATES AIRLINES,	:	
	:	
Defendant.	:	
	:	
-----X		

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, defendant Emirates (sued incorrectly as "Emirates Airlines" and hereinafter "Emirates"), by and through its attorneys Clyde & Co US LLP, files its Notice of Removal to this Court of an action pending against it in the Civil Court of the City of New York, County of Queens, Small Claims Part 47. Removal is based on the following grounds:

1. This action was commenced against Emirates in the Civil Court of the City of New York, County of Queens, Small Claims Part 47, on or about May 31, 2018. A copy of the Notice of Claim and Summons to Appear is annexed hereto as Exhibit "A."
2. The Notice of Claim and Summons to Appear dated June 1, 2018 was sent via First Class Mail to Emirates at Terminal 4 of JFK International Airport postmarked on June 1, 2018. No further proceedings have been held in this action.
3. The Notice of Claim and Summons to Appear seeks to "recover monies arising out of lost baggage and ref no: JFKEK13373." *See* Notice of Claim and Summons to Appear. Plaintiff's claim for lost baggage under ref no. JFKEK13373 involved alleged lost baggage during Plaintiff's carriage from New York to Bangkok, which was part of Plaintiff's round-trip

New York-Dubai-Bangkok-Dubai-New York carriage with Emirates from September 24, 2017 to October 9, 2017.

4. The transportation out of which the subject matter of this action arose was "international carriage" within the meaning of a treaty of the United States known as the Convention for the Unification of Certain Rules Relating to International Transportation by Air, done at Montreal on 28 May 1999, ICAO Doc. No. 9740 (entered into force November 4, 2003), *reprinted in* S. Treaty Doc. 106-45, 1999 WL 33292734 (hereinafter "Montreal Convention") because the place of Plaintiff's departure and destination was the United States, there was an agreed stopping place within the territory of another State, and the United States is a State Party to the Montreal Convention.

5. Because the lost baggage incident occurred during carriage that was "international" as defined in Article 1 of the Montreal Convention and because Plaintiff's lost baggage claim falls within the scope of Article 17.2 of the Montreal Convention, the Convention exclusively governs the rights and liabilities of the parties to this action. *See El Al Israel Airlines, Ltd. v. Tseng*, 525 U.S. 155 (1999); *Mateo v. JetBlue Airways Corp.*, 847 F. Supp. 2d 383, 387 (E.D.N.Y. 2012); *Booker v. BWIA West Indies Airways, Ltd.*, 2007 WL 1351927 (E.D.N.Y. May 8, 2007); *Bunis v. Isirair GSA, Inc.*, 511 F. Supp. 2d 319 (E.D.N.Y. 2007); *Singh v. North American Airlines*, 426 F.Supp.2d 38 at 44-45 (E.D.N.Y.); *Mendez v. American Airlines, Inc.*, 2003 WL 21032034 at \*3 (S.D.N.Y. May 5, 2003); *DeGeorge v. American Airlines, Inc.*, 2002 WL 31356266 at \*4 (S.D.N.Y. Oct. 17, 2002).

6. As such, this Court has original jurisdiction over the underlying action pursuant to 28 U.S.C. § 1331, and, therefore, the underlying action may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §§ 1331 and 1441.

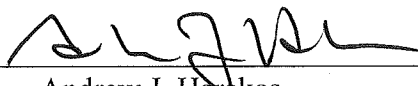
7. Pursuant to 28 U.S.C. § 1446, this Notice of Removal is timely filed in the United States District Court for the Eastern District of New York, which is the district in which the Civil Court action is pending.

8. Concurrently with the filing of this Notice, Emirates is giving notice of removal to Plaintiff, and is filing a copy of this Notice with the Clerk of Court of the Civil Court of the County of Queens as required by 28 U.S.C. § 1446(d). A copy of the Notice of Filing Notice of Removal is attached hereto as Exhibit "B."

WHEREFORE, defendant Emirates respectfully requests that this action be removed to this Court.

Dated: New York, New York  
June 27, 2018

CLYDE & CO US LLP

By:   
Andrew J. Harakas  
Philip R. Weissman  
The Chrysler Building  
405 Lexington Avenue  
New York, New York 10174  
(212) 710-3900

*Attorneys for Defendant Emirates*

To: Neil N. Malhotra  
47 Miller Place  
Levittown, New York 11758  
*Plaintiff Pro Se*